

United States District Court  
Eastern District of California

Keith Somers,

Plaintiff,

vs.

M. Perez, et al.,

Defendants.

No. Civ. S 05-0741 MCE PAN P

Order

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Plaintiff, a state prisoner without counsel, filed a civil rights action and request to proceed in forma pauperis.

The case proceeds on the April 27, 2005, amended complaint filed as of right pursuant to Fed. R. Civ. P. 15.

Plaintiff alleges the Board of Prison Terms violated his constitutional rights in addressing his suitability for parole and requests a new hearing.

When a prisoner seeks an earlier or immediate release from prison or requests relief with respect to his term of

1 imprisonment, his sole federal remedy is by means of a petition  
2 for writ of habeas corpus. Preiser v. Rodriguez, 411 U.S. 475,  
3 500 (1973). Before a state prisoner may bring a federal habeas  
4 corpus action, he must present his claims to the state's highest  
5 court. Picard v. Connor, 404 U.S. 270, 276 (1971); Middleton v.  
6 Cupp, 768 F.2d 1083, 1086 (9th Cir. 1986).

7 Plaintiff's claims should be raised in a habeas corpus  
8 petition brought after exhausting state judicial remedies.

9 Accordingly, the court hereby orders that:

10 1. The Clerk of Court shall send plaintiff an application  
11 for writ of habeas corpus.

12 2. Plaintiff shall, within 20 days, complete and return the  
13 application for habeas corpus, which will supersede prior  
14 pleading.

15 Dated: June 16, 2005.

16 /s/ Peter A. Nowinski  
17 PETER A. NOWINSKI  
18 Magistrate Judge  
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